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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,019	08/17/2001	Werner Poechmuller	10191/1782	2584

26646 7590 03/19/2003

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EXAMINER

FULLER, RODNEY EVAN

ART UNIT	PAPER NUMBER
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2851

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/856,019

Applicant(s)

POECHMULLER, WERNER

Examiner

Rodney E Fuller

Art Unit

2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 8-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following items:
 - a. On page 5, line 36 of the Specification the ref. # 2 is associated with “a stereoscopic instrument.” However, ref.# 2 is associated with a “seat” in Figure 1 and on page 4, line 30 of the Specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka (DE 197-41-393-A1) in view of Hofflinger (DE 42-09-536-A1).

As noted in the International Preliminary Examination Report

(PCT/DE99/03111), Tanaka discloses (column 2, line 59-column 5, line 32; column 6,

line 31 – column 7, line 38; column 9, lines 5-13; Figures 2, 11-15) a device for detecting

the occupation of a vehicle seat according to the generic part of independent claim 8, wherein at least one optical sensor (ref.3 1, 10, 10A, 11, 12) has a transducer characteristic curve, linear in the operating range, describing the connection between the incident light intensity and its electrical output signal (see column 4, lines 4-25). Tanaka does not disclose that the transducer characteristic curve is nonlinear in the entire operating range, the steepness of the transducer characteristic curve decreasing with increasing light intensity. However, this feature well known in the art as is evident from the teaching of Hofflinger (page 2, lines 6-14 and 58-59; page 4, lines 38-63; Figures 3, 4a, 4b0, according to which the transducer characteristic curve has a logarithmic shape, as defined in claim 9. The invention consists only in that a known image processing means, which is clearly suitable for the application concerned, is used with a known stereoscopic image recording device. Thus, to one skilled in the art it would be obvious to use the means known from Hofflinger in the case of a device according to Tanaka with corresponding effectiveness, in order to be able to record the scene on the vehicle seat with high resolution and without a costly light source, even in the case of great brightness dynamics.

Regarding claims 8-15, the claimed features are either known per se from Tanaka and Hofflinger (e.g., see Hofflinger page 4, lines 44-46, with regard to claim 9; Tanaka column 4, lines 19-25, Figure 2, 11, with regards to claim 10; Tanaka column 6, lines 66- column 7, line 18 with regard to claim 12; Tanaka column 7, lines 32-34 with regards to claim 13; Tanaka column 6 lines 59-65 with regards to claims 14 and 15) or lie within the

framework of the competency of one skilled in the art. Thus, claims 8-15 do not add anything inventive to claim 8.

5. Claims 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka (US 6,116,640) in view of Hofflinger (DE 42-09-536-A1).

Tanaka discloses all the structures set forth in the claims except for the limitation in independent claim 8 wherein “at least one optical sensor” has “...a nonlinear transducer characteristic curve” with “...a steepness of the characteristic curve decreasing with increasing light intensity.” However, the use of an optical sensor that has a “...a nonlinear transducer characteristic curve” with “...a steepness of the characteristic curve decreasing with increasing light intensity” is routine in the art as is evident from the teaching of Hofflinger (page 2, lines 6-14 and 58-59; page 4, lines 38-63; Figures 3, 4a, 4b). Thus, it would have been obvious to one skill in the art at the time the invention was made to modify Tanaka by using an optical sensor that has “...a nonlinear transducer characteristic curve” with “...a steepness of the characteristic curve decreasing with increasing light intensity.” The ordinary artisan would have been motivated to modify Tanaka in the manner described above in order to be able to record the scene on the vehicle seat with high resolution and without a costly light source, even in the case of great brightness dynamics.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Ishikawa, et al. (US 4,625,329), Gentry, et al. (US 5,330,226), Breed, et al. (US

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6,513,830), and Ikeda, et al. (US 5,699,057) each disclose a device for detecting a manner in which a vehicle seat is occupied by stereoscopic imaging.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney Fuller whose telephone number is (703) 306-5641. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams, can be reached on (703) 308-2847.

Rodney Fuller
Primary Examiner

A handwritten signature in black ink, appearing to read 'R. Fuller', with a stylized flourish at the end.

March 12, 2003